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June 22, 2004


Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth St., N.W.
Washington, D.C. 20554

**Re: AT&T Corp. Petition for Declaratory Ruling Regarding
Enhanced Prepaid Calling Card Services,
WC Docket No. 03-133**

Dear Ms. Dortch:

Blaine Gilles, Adam Kupetsky, and Mike Shaw of WilTel Communications, LLC ("WilTel"), and my colleague Peter Rohrbach and I on behalf of WilTel, made an *ex parte* presentation today regarding the proceeding referred to above, to Jeff Carlisle, Deputy Chief, Wireline Competition Bureau ("WCB"); Steve Morris, Deputy Chief, Pricing Policy Division, WCB; Cathy Carpino, Deputy Chief, Telecommunications Access Policy Division, WCB; and Margaret Dailey of the WCB staff. We used the attached handout, which summarizes the content of the presentation. If you have any questions, please contact me.

Respectfully submitted,



David L. Sieradzki
Counsel for WilTel Communications, LLC

cc: Jeff Carlisle
Steve Morris
Cathy Carpino
Margaret Dailey

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FCC MUST ACT QUICKLY ON AT&T PREPAID CALLING CARD PETITION

WilTel Communications, LLC

Ex Parte Presentation

WC Docket No. 03-133

FCC Must Act Quickly on AT&T Prepaid Calling Card Petition

- FCC must act quickly on AT&T Prepaid Card Petition, which has been pending for over a year
- FCC silence being treated as consent to avoid access charges and USF
- Failure to resolve issue will result in:
 - Similarly-situated companies competing based on amount of regulatory risk they are willing to take rather than on business capabilities
 - Jeopardizing USF

The Issue

- Can a company carrying phone-to-phone traffic that originates and terminates on the PSTN avoid access charges and USF due to purported service enhancements that are bundled with the core telecom service that the end-user is paying for?
 - For example, AT&T claims its prepaid card service is enhanced because advertisers pay for recorded messages played for end-users.
 - Other entities claim that “enhancements” such as delivering time-of-day or call duration data exempt traffic from access charges and USF, even if end-users never request or use them.
- FCC’s decision must apply whether traffic is handled by one or more companies

Confusion Over What Services Are “Enhanced” Is Affecting the Marketplace Now

- Companies are already treating the FCC’s silence as confirmation that access and USF do not apply
 - Amount of traffic from prepaid calling card calls is significant
 - The issue is not limited to prepaid card traffic – carriers in other, related sectors are making similar claims
 - Customer-requested pricing in the wholesale marketplace – with demanded rates often at or below the applicable access charges – clearly indicates an expectation that access charges can be avoided

Customer-Requested Pricing Sample

LATA	Requested Price	Minimum Access Charge
130 (RI)	.0025	.003
222 (NJ)	.0033	.003
557 (TX)	.0037	.003
252 (VA)	.0017	.003
480 (AL)	.0026	.003

FCC has Responsibility to Act

- It is FCC's job to produce regulatory certainty
 - Clear rules
 - Enforcement of rules
- Failure to set clear rules rewards companies that flout the rules and penalizes companies that seek to comply

Strong Public Policy Reasons Mandate that the FCC Address Issue Quickly

- If FCC doesn't act:
 - Industry is forced to compete on relative appetite for regulatory risk rather than the quality and efficiency of networks and services
 - Regulatory risk tolerance determines winners and losers – not technology, efficiency, or other real marketplace factors
 - USF funding jeopardized as carriers stop contributing and seek refunds for purportedly “enhanced” calls
 - Sprint Pleading
 - Others forced to follow so they don't subsidize others' USF obligations
 - USF fund will suffer; litigation will ensue